IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

DATE OF DECISION: 10.8.2006

United India Insurance Co.Ltd.

...Appellant

versus

Deepak Sharma and others

... Respondents

CORAM:- Hon'ble Mr. Justice Uma Nath Singh.
Hon'ble Mr. Justice S.D.Anand.

Present: Mr.R.M.Suri, Advocate,
for the appellant.

UMA NATH SINGH, J.

In this FAO by the Insurance Company against an award dated 1.3.2006 passed by learned Presiding Officer, Motor Accident Claims Tribunal, Panchkula, in MACT Case No.724 of 6.11.2001/8.11.2002, awarding a sum of Rs.7,52,500/- in an injury case, with serious multiple injuries, learned counsel submitted that the driver of the offending vehicle was only holding a licence to drive light motor vehicle, whereas the offending vehicle is a heavy motor vehicle, which he was not authorised to drive.

Admittedly, the driver of the offending vehicle had applied for endorsement, authorising him to drive heavy motor vehicle on his licence much before the date of accident. On the last date of hearing, learned counsel had been granted time to find out as to whether the driver had passed the requisite test and completed all the formalities before the date of accident. Learned counsel, though has received instructions, but not on that aspect of the case. This is also an admitted fact that the

Licencing Authority, after the accident, granted endorsement on the driving licence of the driver, authorising him to drive heavy motor vehicle. Besides, filing of this appeal is also barred by 39 days' delay and we do not find sufficient cause to condone the said delay. Moreover, Hon'ble the Apex Court in the judgment reported in AIR 1998 SC 2276 (P.K.Ramachandran versus State of Kerala and another), has held that the Courts cannot extend the limitation on equitable ground. Further, the application of the Insurance Company under Section 170 of the Motor Vehicles Act, 1988, to contest the case has also been rejected. Therefore, it would not be open for the Insurance Company to urge any other ground. Since the driver of the offending vehicle was granted endorsement authorising him to drive heavy motor vehicle in respect of his application made much before the date of accident and the Insurance Company not being in a position to tell after conducting the investigation as to whether the driver in question had passed requisite test and completed all necessary formalities before the accident and furthermore, since there is a delay, as noted above, we are not inclined to entertain the appeal.

Accordingly, the FAO is dismissed on the ground of delay as well as on merits.

(UMA NATH SINGH)
JUDGE

August 10, 2006
pk

(S.D.ANAND)
JUDGE